

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCELINO C. MANDAL, EDUARDO P. MANANSALA, AND JOHN DOE,
ACCUSED, MARCELINO C. MANDAL AND EDUARDO P. MANANSALA,
ACCUSED-APPELL...**

G.R. No. 87959. August 13, 1990

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Convicted by the Regional Trial Court, Branch LXI, Angeles City,[1] of the crime of Robbery with Homicide, accused, Marcelino C. Mandal and Eduardo P. Manansala, interpose this appeal, pleading their innocence.

Arrayed against their urgings are the following facts presented by the prosecution and given credence by the Trial Court:

The victims, Sgt. Thomas Sessamen and Sgt. Gavino Jose Mendez, were, at the time of the incident, working with the United States Air Force (USAF) in Angeles City. In the early morning of 4 July 1986, at around 1:30 A.M., after bar-hopping, they decided to proceed to another bar known as "Dormitory."

They boarded a jeepney with three (3) male persons inside, including the driver, who turned out to be the accused Eduardo P. Manansala. After riding for some time, Sgt. Sessamen sensed that they were going in another direction. His suspicion was confirmed when the driver took them to a dark street where there were no houses. When they reached a lighted portion of the street, Sgt. Mendez told Sgt. Sessamen that they were getting off. As Mendez tried to do so, however, the man seated in front of him, whom he later identified as the accused, Marcelino C. Mandal, grabbed his shirt, poked a knife at his neck, and demanded his valuables and cash.

At the same time, Sgt. Sessamen was struggling with the man in front of him (presumably John Doe) who was also trying to wrest his personal belongings from him (Sgt. Sessamen). Sgt. Mendez shouted to the latter just to surrender his things. As the jeepney was again about to enter a dark street, Sgt. Mendez jumped off the moving vehicle but was stabbed at the back by Mandal. He still managed to escape, however, asked for help from the residents of Barangay Pulong-Maragul, who took him to the Clark Air Base Hospital where he was treated for his wounds for about two weeks.

Later in the morning of 4 July 1986, the dead body of Sgt. Sessamen was found sprawled on the road at Barangay Pulong-Maragul, Angeles City, from where Sgt. Mendez had earlier made good his escape. The autopsy findings on the cadaver revealed six (6) stab wounds, the fatal one being that which penetrated the victim's heart.

On 6 July 1986, accused Mandal was arrested. Sgt. Mendez, who was summoned to see whether he could identify their assailants from a police line-up, readily pointed to Mandal as the one who had stabbed him and divested him of his valuables. Sgt. Mendez even informed the police that Mandal had an "S" tattoo on the web between the thumb and forefinger of his left hand, which the police confirmed upon verification. On 9 July 1988, the police were able to arrest accused Eduardo P. Manansala, who was also identified by Mendez in another police line-up

of twelve (12) men, as the driver of the jeepney wherein they were held up.

Shielding themselves behind the defense of alibi, the accused-appellants contend:

"On the other hand, the defense has satisfactorily established that on July 3, 1986, at around 9:00 in the evening, Marcelino Mandal slept with his girlfriend in a room at San Ignacio, Angeles City, and stayed there up to 10:30 in the morning of July 4. From there, he proceeded to the house of his mother at Abacan Housing Area and stayed there the whole day of July 5, 1986. In the morning of July 6, 1986, he again went to the apartment of his girlfriend at San Ignacio and at noontime, he went to the house of his mother. In the evening of July 6, at around 10:00 in the evening, while on board a passenger jeepney to attend a birthday party, he and a companion were arrested by members of the Anti-Narcotic Unit of the Angeles City Police - they were included in a police line-up. Thereafter, he and his co-accused were charged of the crime of robbery with homicide." (p. 2, Brief for Defendant-Appellants).

After trial, the Court a quo rendered judgment on 6 February 1989 finding accused, Marcelino C. Mandal and Eduardo P. Manansala, guilty as charged. The dispositive portion of the judgment reads:

"PREMISES CONSIDERED, AND IN THE LIGHT OF ALL THE FOREGOING, the Court finds both accused Marcelino C. Mandal and Eduardo Manansala GUILTY as charged beyond reasonable doubt and hereby sentences them to LIFE IMPRISONMENT; to each pay the heirs of the deceased THIRTY THOUSAND PESOS (P30,000.00), Philippine Currency; and to pay the costs of this suit."

The records disclose that during the trial, Manansala failed to present his defense as he escaped from prison and was re-arrested only in time for the promulgation of judgment (Original Record, p. 339). The transcripts of the proceedings show, however, that throughout he was duly represented by counsel who, occasionally, also adopted the cross-examination of Mandal's lawyer (e.g., tsn, September 23, 1986, p. 11).

Convicted as aforesated, accused-appellants raise the following:

"ASSIGNMENTS OF ERROR

I

The Trial Court grievously erred in holding both the accused-appellants were identified or pointed out during the police line-up.

II

The Trial Court committed grave error in disregarding the plea of alibi by appellant Marcelino Mandal.

III

The Trial Court committed grave error and injustice in not acquitting appellants."

After a careful evaluation of the evidence on record, the Court is convinced that accused-appellants are guilty of the crime charged and that they acted in concert to perpetrate the crime of Robbery with Homicide.

Accused-appellants assail the Trial Court's finding that Sgt. Mendez had positively identified accused-appellants as the perpetrator of the crime. Accused-appellant Mandal points out that Mendez could not have possibly noticed his "S" tattoo as the struggle took place in a dark area and that Mendez's claim that he had seen the "S" tattoo was reported to the police only two days after his arrest.

The evidence sufficiently rebuts the foregoing assertions. Mendez narrated that the jeep where they were on board was well-lighted (p. 29, tsn, August 12, 1986). Mandal was seated in front of him. He saw the face of Manansala

as the latter turned his face towards him (Mendez) to receive the P5.00 bill for their fare (p. 30, *ibid.*). He saw Mandal's tattoo mark when the latter grabbed his shirt and poked a knife at his neck (Exhibit "A-1"), and when he surrendered his valuables without offering any resistance. Identification was further made in two police "line-ups" when accused-appellants were arrested, with Mendez identifying Mandal first, and Manansala subsequently (tsn, November 17, 1986, pp. 22-26). In open Court, Mendez also unerringly pointed to both accused.

Accused-appellants also contend that the Trial Court erred in rejecting the defense of alibi. Mandal claims that on 3 July 1986, he slept with Ruby Ramos, his girl friend, in San Ignacio, Angeles City, and stayed there up to 10:30 the following morning, 4 July 1986. Corroborating his testimony, Ruby Ramos said that she was with Mandal on 3 July 1986 until 10:30 in the morning of the following day.

It is a settled rule that alibi, being an inherently weak defense, cannot be considered unless clear and satisfactory evidence is presented to show that it was physically impossible for the accused to be present at the scene of the crime or at the vicinity thereof at the approximate time it was committed. Neither can alibi prevail over the clear, direct and positive identification of the accused as those responsible for the assault on the victim (*Manalaysay vs. Court of Appeals*, G. R. Nos. 79940 & 79971, April 12, 1989, 172 SCRA 99; *People vs. Melgar*, G. R. No. 75268, January 29, 1988, 157 SCRA 718; *People vs. Reunir*, G. R. No. 73605, January 29, 1988, 157 SCRA 686).

Mandal himself said that it would take only from four (4) to five (5) minutes to travel from San Ignacio, Angeles City to the scene of the crime in Pulong-Maragul (p. 7, tsn, November 10, 1987). Considering the distances between the places where Mandal claims to have been and the crime scene, it was not physically impossible for him to have been at the latter place at the time of the commission of the crime.

Finally, the accused-appellants argue that the Trial Court erred in not acquitting accused-appellants on reasonable doubt. A thorough assessment of the evidence, however, negates that argument. Aside from the positive identification by Mendez, the tattoo mark "S" on the web of Mandal's left hand gave him away. That Manansala is culpable as well is shown by the fact that, as the jeepney driver, and with Mendez and John Doe on board, he (Manansala) drove the victims, not to their destination but to an isolated dark street where they could perpetrate their criminal design with impunity.

The fact that Mendez is a victim himself does not make him a biased witness. In fact, it adds to his credibility, his testimony being predicated on his personal knowledge (*People vs. Dava*, G. R. Nos. L-41642-45, May 15, 1987, 149 SCRA 582). No ulterior motive to testify falsely against accused-appellants has been imputed to Mendez. He has shown no hostility but only an interest in bringing the malefactors to justice. As the Trial Court found, his declarations were "forthright, direct and shorn of theatrics," compared to the testimonies of defense witnesses which "tended to confuse rather than to enlighten."

WHEREFORE, the decision appealed from is hereby AFFIRMED, in toto, except that the penalty imposed should be "reclusion perpetua," as prescribed in Article 294 of the Revised Penal Code, and not "life imprisonment." Each accused shall pay one-half of the costs.

SO ORDERED.

Paras, Padilla, and Regalado, JJ., concur.
Sarmiento, J., on leave.

[1] Judge Ramon C. Tuason, presiding.

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